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Pirate-infested seas 'not fit for seafarers'

The ITF today threw down the gauntlet to those flag states and shipowners who have not taken action to fight Somali piracy to act now, before the threat makes it virtually impossible for seafarers to pass through the ever-widening danger area.

The Federation stated that: "save in exceptional circumstances, ships should not transit the (affected) area. The risk of attack is now so great that putting seafarers in harm's way amounts to a breach of the shipowner's duty of care." It went on to describe a motion adopted by its Fair Practices Committee as a statement of intent that flag states and shipowners have to assess the risks and act definitively to combat them, or risk finding themselves outside the law.

ITF Maritime Coordinator Steve Cotton explained: "There are countries actively fighting piracy and there are owners training and supporting their crews to resist it. Then there are others who are shirking responsibility and as good as accepting its steadily growing menace, which has now brought us to the point where one of the world's great trading routes is now almost too dangerous to pass through."

He continued: "Today's statement reflects the frustration of all those who work at sea at the dire situation we've reached. One where pirates act virtually unmolested and, even if intercepted, with virtual impunity from arrest. It calls into question the very legality of continuing to send ships through much of the Indian Ocean. It is therefore imperative that not only must protective escorts be used but that flag states immediately decide on the protective measures that they must recommend for the ships that are flying their flag and that those ships' operators comply with them."

He concluded: "We, and many others, also want to see the end of what's virtually an open secret in shipping – that many of the world's largest ship registers have provided not one vessel to patrol an ocean that can only be made safe by an increase in the number of warships needed to aggressively patrol and police it. I am not aware of a single flag of convenience country that is acting in this way to protect the ships that are supposedly their responsibility."

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The ITF statement on piracy released today after being adopted by the Fair Practices Committee (a joint decision making committee of seafarers' and dockers' unions which, among other duties, considers war risks) is as follows:

“Statement on Piracy

The ITF Seafarers Section having assessed the growing problem of piracy in the Gulf of Aden, off the coast of Somalia and now in the wider Indian Ocean has determined that save in exceptional circumstances ships should not transit the area. The risk of attack is now so great that putting seafarers in harms way amounts to a breach of the shipowner's duty of care.

The exceptional circumstances relate to:

- having close active protection from naval forces or being in a convoy which has an adequate naval escort; or
- the ship can be classified as low risk and has a proven level of protection measures in place.

The ITF also considers that seafarers should suffer no detriment from refusing to take ships into these high risk areas. Seafarers have a right to refuse to put themselves in harms way and the right to be relieved before the ship enters a high risk area. The ITF calls on flag States and shipowners to uphold seafarers' rights in this regard.

The ITF re-affirmed the position that seafarers should not be armed.

The ITF call's on the wider shipping industry to support this position and to take all measures to ensure the protection of seafarers by not putting them in harms way.”

ENDS

Q&As

Q. Is the ITF recommending stopping all movements across the entire Indian Ocean unless they are in convoy or escorted by a warship? But surely there aren't enough of either for all ships, nor do they cover all the routes.

A. There are currently insufficient naval forces to escort more than a small proportion of essential vessels, however *only a third* of flag states are actively contributing to vessel protection and there is much more that littoral states can do to police their coastal areas.

Q. How many convoys are travelling now, how does a vessel join them or get protection, what about cases of ships told they can't have that protection?

A. There is protection through the transit zone offered by EU NAVFOR (EU Naval Force) through MSC HOA (Maritime Security Centre, Horn of Africa), with which ships should -

but don't always - register. There are also convoys offered by some naval forces to their own flag vessels. This leaves a massive area where vessels have limited protection. It is estimated that there are 25 to 30 naval vessels operating in the area at any one time. It has also been estimated that it could take nearer 400 vessels to do the job properly.

Q. What's a 'low risk' vessel given the range of types attacked so far, and if high risk ones disappeared from the area wouldn't the low risk ones be attacked anyway?

A. Pirates have attacked both low and high risk vessels, but EU NAVFOR has stated that 80% of ships taken fall into the high risk category. This assessment is based on speed, freeboard (height of the ship's sides), manning levels, and training and protective measures onboard. The pirates have changed their tactics constantly so no vessel can be certain of being safe from attack, but with appropriate naval support it can be considered a reasonably safe vessel.

Q. Does the ITF believe that next month or next year there will be a real reduction in ships using the Indian Ocean unless they're in a convoy or under close escort?

A. There are already many companies that divert their vessels around the Cape and we expect that, given the current increase in successful acts of piracy, more companies will make this choice.

Q. Wouldn't it be simpler to target and arrest pirates or blockade their ports?

A. *Blockading is unrealistic given the way a number of pirate gangs work. Targeting mother ships has already had some effect but there are thousands of small boats that are or claim to be fishing, and only become pirates in the eyes of the law when they attack. Undoubtedly more aggressive action against pirates, especially by arresting them, would give more protection to vessels, but it would, of course, have to be done in a lawful manner.*

Q. Is anywhere in the Indian Ocean safe?

A. The High Risk area is well known. But unless new and effective measures are introduced urgently to protect vessels from piracy attacks the risk level will rise across much wider areas of the Indian Ocean. This is a massive area to police and current actions and policies by naval forces will need to be reviewed.

Q. How are ship owners likely to view the ITF's position?

A. The ITF is aware that many ship owners and operators are similarly frustrated at the current situation and are looking for mechanisms to solve the problem of Somalia piracy. Ultimately the responsibility for the crews' welfare lies with the flag state and owner, and if the situation continues to deteriorate and their legal 'duty of care' for seafarers cannot be assured the owner will need to reevaluate the possibility of vessels passing through these areas. We have made an objective decision of the current levels of risk and we hope and expect that owners will act similarly and then fulfil their legal and moral obligations. It is also essential that they get guidance from the flag states whose responsibility it is to protect the ships flagged to them.

Q. What effect does this have on designated war zones and the IBF? (The IBF is a forum that brings together the ITF and employers' groups. For more details see www.itfseafarers.org/about-IBF.cfm)

A. The expanding area of pirate operations will be raised at the IBF, which already recognises specific 'high risk' areas off Somalia in addition to the universally agreed war zones - however the danger zone is rapidly increasing.

Q. Are ships actually going to stop using the Indian ocean because the ITF says it's dangerous?

A. The ITF position is that vessels should not transit these areas if protection of the seafarers on them cannot be assured. We accept that while this is our position the actions of the seafarers and owners must be subject to their own risk assessment, however we would stress to them that recent events have shown that very few ships can be classified as safe.

Q. Are you leaving it to flag states and ship-owners to decide whether to divert ships away from the danger areas?

A. Ultimately flag states and ship owners will make their decision, just as seafarers will make the decision as to whether the risk is unacceptable and they wish to be discharged. The issues of duty of care however are likely to become increasingly important and the judgement of the owners on whether to put their seafarers at risk will come into question in the near future.

Q. What effect would a necessary avoidance of the danger areas (ie by rerouting around the Cape) have on world trade and on the littoral states?

A. Potentially, a huge effect on the littoral states.

Q. The ITF statement says seafarers should not be armed. What is the ITF's position on armed non-seafarers on board merchant vessels?

A. The unions' and industry's firm position is that seafarers should not be armed, and that there should be no arms onboard, not only because they introduce massive legal and liability issues but also because they can potentially raise the level of violence used by pirates and further endanger seafarers. However the decision on whether or not to carry armed personnel is the prerogative of the flag state and the owner. Unions are keeping the situation vis a vis arms on ships under constant review.